

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO

FILED

JAN 24 2022

CLERK, U.S. DISTRICT COURT
NORTHERN DISTRICT OF OHIO
AKRON

Rebecca M. Shepard
Plaintiff

-vs-

Louis Stokes Cleveland
Cleveland Dept. of Vet Affairs
Defendant(s)
Medical Center

CASE NO. 1:22 CV 00125

JUDGE JUDGE CALABRESE

MAG. JUDGE PARKER

Complaint
Attached

Louis Stokes Cleveland Department of Veteran Affairs
Medical Center /Wade Park
10701 East Blvd
Cleveland, Ohio 44106

~~07/15/2020~~

1-24-22

Here is a **Introduction** of my complaint against the Veteran Administration, Louis Stokes Wade Park Hospital, ICU. My complaint states negligence, undue trauma ,pain suffering and eventually wrongful death:

On Friday December 6, my husband, Willie M Shepard #9138 was admitted to the V A hospital after an outpatient appointment. After routine blood work it was determined that his hemoglobin was at 4. **Willie also had a EKG at this time, however it did not show any heart related concerns.** He remained in the hospital for 40 days. Please note, between me, my daughter and son, we remained in his room by his side all forty days. It was a promise that we would NEVER leave him alone in the hospital as he unable to communicate with medical staff.

Although this hemoglobin number was concerning, I quickly informed the doctors that a few years prior, my husband's hemoglobin number had went down to 5. He was admitted to Akron Summa Hospital, given blood transfusion. And whatever caused the bleeding , which was never determined stopped after a few days and within 10 days he returned home from Summa Hospital with no further issues.

After several request, The VA staff **never reviewed** the records from Summa and stated that because the situation occurred a few years ago, it was not relevant to see the records. Instead, they attempted every test to determine the cause of bleeding. In the meantime, the bleeding did eventually stop as it had in the past. However many additional problems occurred in the process.

1. Willie had two attempts at a esophagogastroduodenoscopy procedure. Please note: When I signed for permission for the procedures, I was unaware that the **VA did not have a medical power of attorney on file. The procedure was completed without proper authorization.** Several days later I was advised to **quickly get copy of power of attorney from home and submit to the medical records department.** During the second procedure attempt oxygen preparation was not conducted, nor was his lungs cleared with his cough assist machine prior to the procedure. (see attached medical report) His cough assist machine remained in the room. The attached medical records indicates that no preparation was

conducted for loss of oxygen. Willie lost oxygen during the procedure and required bagged/mask ventilation. Impression: blood was noted in the oropharyngeal. Unknown how long Willie was without oxygen causing severe brain damage. The ICU doctors attempted to say that Willie's brain may have been damaged prior to his admission to cover up neglectful situation. At any case ER doctor also stated that Willie was considered to be in a coma.

Willie's ALS doctor, Stephen Selkirk was called in for consultation. Even though Dr. Selkirk had no contact with Willie in the past three years, he went as far as to say that this brain injury could have previously been ongoing. However please note that Dr. Stephen Selkirk had refused to see Willie in over 3 years. He said he was fine and it was not necessary. Nor had his primary doctor made any efforts to see Willie. Dr. Selkirk's previous nurse Francis McClellan, I.L.S.W. can attest that Dr. Selkirk had not seen Willie in years after several request. Please note that I filed a complaint against Dr. Selkirk for putting his **unfounded opinion in Willie's medical records with no medical v history or validation.**

For the past three years, Willie was only being seen by his oncologist, Dr. Starvovs. for bi-monthly for blood work. Dr. Starvovs never notice, nor commented , nor made any notes of change in Willie's awareness, attention or possible brain dysfunction.

I assured the ER doctors that his mind was totally functional upon admittance. Also on the same day prior to his admittance, Willie was seen by his regular phlebotomist from ultrasound dept.,(Katie) for blood work and his TRI-COUNTY ambulance team of whom transports him on every hospital visit one hour each way. All parties are very familiar and friendly with Willie, as they have had contact for many years. They all talk and interact with Willie on each visit and there were no indication of any concerns. Willie was also seen this week daily by his home health aide, nurse and Bowel Care LPN.

This was very devastating for the doctors to tell me that Willie was now severely brain dead. As an ALS patient the brain and mind is all they have left. Prior to this admittance and procedure, Willie's mind was perfect. He still had memories of of his childhood. Please note other witness statements that attest to Willie's his normal brain functioning.

I also called the *Northeast Ohio ALS Association* to verify my facts. I was told by *Lisa Bruening, MS, CCC-SLP - Director of Care Services* that my facts were correct. In her experience **ALS does not cause brain damage of cognitive functions.**

2. Willie never wore a urinal catheter because of our fear of infection. Instead he always used an external urinal that drained the urine in a bag. Willie was admitted with the urinal and he initially had normal urine flow. It was noted by myself that Willie had not urinated in several days following the attempted procedures. His penis had started to slightly bend with the buildup of fluids. The evening second shift nurse, **not neurology, forced the insertion of a catheter in his penis and** caused severe trauma. Although it did immediate help with urination, in turn; it created **severe bleeding in his urine for over a month** during this stay.

(Because patients who are in a coma can't urinate on their own, they will have a rubber tube called a catheter inserted directly into their bladder to remove the urine.)

3. Willie was taken off his feeding and continually given **excessive** fluids, causing swelling and third spacing along with the trauma stricken penis. The third spacing caused his scrotum area to become enlarged. (As you will see by attached pictures.) As his wife and caretaker, I was very concerned and many times asked the doctors if the swelling from the excessive fluids would tear the skin and bust open. I was assured that this was normal and the swelling would go down.

During the 6 years that I have taken care of Willie at home, he has **never had a bedsore or wound**. Even the nurses during admittance were so surprised at how well his skin was taken care of and how well he was groomed. I have enclosed letters from his home health aide and his home nurse that have attested to his skin condition over the past 6 years.

4. **After two weeks of the skin continuing to stretch and the doctors not showing concern, it final broke open approximately December 30, 2019.** Willie obtained major severe tears in his skin and severe open wounds. Although his voice was very faint, he could be heard occasionally moaning in pain. However he didn't have the ability to scream out. He had a **tear between his penis and scrotum**, he had an **open hole under his scrotum** and an **open wound on his buttock**. It was a horrific Scene and worst to watch my husband, a veteran who has been such a fighter during his 100% connected injury and has endured so much have these unnecessary wounds and severe pain and trauma due to medical negligence.

5. While in the VA hospital I became very frustrated regarding my husband's condition and treatment. I went to the social worker and doctors for a meeting and **unsuccessfully attempted** to have him transferred to Akron Summa. After his hemoglobin was back to normal all the **issues that he came in for were resolved**. He was **release on Jan 20, 2020, however he was leaving the va hospital with more concerns in which he had when he went in;** Heis leaving with **major wounds injuries, severe brain damage and severe third spacing swelling that he did not come in with**. On Jan 23, 2020 still frustrated with the swelling, I took Willie to Summa to relieve swelling that still remained. Summa E.R can confirm the extent of Willie's swelling left from the VA's treatment. We remained in Summa hospital 3 days until Jan 26, 2020. At which time, Summa was successfully able to relieve over 90 % of the swelling. However the severity and brain damage of the wound caused by the VA was still concerning.

When he left Summa Hospital all his vitals were good. And his blood work was all good. His EKG was normal and the wounds and brain damage were the only concern. His doctor at Summa ,Dr.Shirzza Amamibu assured me when released that according to his vitals, his heart rate , hemoglobin, other blood work his decrease in swelling and his EKG he sees no reason for concern of any immediate death.

-
6. On Jan 29, I awoke at 6:00 a.m. to Willie being saturated with blood . His wound had bled out. It was blood all over his bedding. I called 911. It was determined that the severe bleeding under his scrotum had bled out and caused Willie to go into cardiac arrest. He was taken to Summa hospital , where he never recovered. On Feb 2, 2021, we had to make the devastating decision to disconnected his ventilator and let Willie go.

I am filing this claim based on , **wrongful death, veteran's horrific pain and suffering, negligent causing brain damage and depriving Willie M. Shepard of his only form of communication. He leaves a devoted wife/ caretaker and three loving devoted children.**

In conclusion; I realize that Willie had a death sentence with illness of ALS, however he had beat all the obstacles that could have ended his life in the immediate future. I personally know a veteran (patient of Wade Park Spinal Cord) who survived ALS for 13 years.(Mr. Reginal Allen). Willie wanted to live as long as possible. In order to make that happen, he agreed to a feeding tube, a trach, a ventilator and his family proudly provided 24/7 excellent care. He still enjoyed being in his loving home surrounded daily with his family for milestones and holidays. He enjoyed watching all the Cleveland sports, Indians, Cavs and Browns, he

enjoyed watching politics and game shows. Willie was able to travel to parks in his handicap assessible van and wheelchair. He was able to visit his family members and friends that had ramps.

Willie remained a great advocate for the ALS Association. I have been a active participant of ALS organization support group. Willie was recognized as patient of the year(ALS) May 20, 2018, which was scheduled on his birthday. We attended the ALS walk every year downtown Akron. In all his efforts to survive, his primary cause of death was **NOT ALS**.

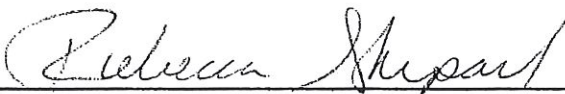
With all his losses, Willie remained totally engaged with life. His quality of life changed after his illness, but his new quality of life was HIS own.

Willie was looking forward to living as long as he could, as we all are. Instead, after being admitted to the Louis Stokes VA Medical center on December 6, 2019 his life was full of pain and devastation. From the enclosed pictures of his scrotum, the pain that he had to endure was inconceivable.

No amount of money can bring Willie back to his family or take away all the pain that he endured. But his family can take some justice that the Veteran Administration accepts responsibility for his ALS injury and a second death sentence of a U.S. Army Soldier PFC Willie McArthur Shepard for pain, suffering, negligence and wrongful death. Willie's Life matters.

Spouse/widow: Rebecca Shepard, ~~shepard@shepardlaw.com~~, 330 524 0811

973 Hartford Ave Akron, Ohio 44320



7-15-2020
1-24-22

RECEIVED
JUL 20 2020
BY: _____

CLAIM FOR DAMAGE, INJURY, OR DEATH		INSTRUCTIONS: Please read carefully the instructions on the reverse side and supply information requested on both sides of this form. Use additional sheet(s) if necessary. See reverse side for additional instructions.		FORM APPROVED OMB NO. 1105-0008	
1. Submit to Appropriate Federal Agency: <i>Patient Advocate</i> <i>Louis Stokes Cleveland Dept.</i> <i>of Veteran Affairs Medical</i> <i>Center - Wade Park.</i> <i>10701 East Blvd Cleveland OH 44106</i>		2. Name, address of claimant, and claimant's personal representative if any. (See instructions on reverse). Number, Street, City, State and Zip code. <i>Willie Shepard #9138</i> <i>973 Hartford Ave</i> <i>Akron OH 44320</i> <i>Deceased</i>		<i>Rebecca Shepard</i> <i>973 Hartford Ave</i> <i>Akron, OH 44320</i> <i>(Spouse-Widow)</i>	
3. TYPE OF EMPLOYMENT <input type="checkbox"/> MILITARY <input type="checkbox"/> CIVILIAN	4. DATE OF BIRTH <i>5-20-1942</i>	5. MARITAL STATUS <i>M</i>	6. DATE AND DAY OF ACCIDENT <i>Throughout 12-6-19</i> <i>throughout 2-1-2020</i>	7. TIME (A.M. OR P.M.) <i>Various</i>	
8. BASIS OF CLAIM (State in detail the known facts and circumstances attending the damage, injury, or death, identifying persons and property involved, the place of occurrence and the cause thereof. Use additional pages if necessary). <i>Summary</i> <i>Pics</i> <i>Witness statements</i> <i>Medical notes</i> <i>See attached Statement</i>					
PROPERTY DAMAGE					
9. NAME AND ADDRESS OF OWNER, IF OTHER THAN CLAIMANT (Number, Street, City, State, and Zip Code). <i>NONE</i>					
BRIEFLY DESCRIBE THE PROPERTY, NATURE AND EXTENT OF THE DAMAGE AND THE LOCATION OF WHERE THE PROPERTY MAY BE INSPECTED. (See instructions on reverse side). <i>N/A</i>					
PERSONAL INJURY/WRONGFUL DEATH					
10. STATE THE NATURE AND EXTENT OF EACH INJURY OR CAUSE OF DEATH, WHICH FORMS THE BASIS OF THE CLAIM. IF OTHER THAN CLAIMANT, STATE THE NAME OF THE INJURED PERSON OR DECEDENT. <i>Brain damage - unable to communicate/loss only form of</i> <i>destruction injury of scrotum area/CAUSED extreme</i> <i>continuous pain.</i>					
WITNESSES					
NAME		ADDRESS (Number, Street, City, State, and Zip Code)			
<i>Rebecca Shepard</i>		<i>973 Hartford Ave. Akron, OH 44320</i>			
<i>Whitney Shepard</i>		<i>" " " " " "</i>			
<i>Mary Johnson</i>		<i>1196 Dover Ave Akron, OH 44320</i>			
<i>Brandi Peters</i>		<i>738 Cranewalk #A Akron, OH 44306</i>			
12. (See instructions on reverse).					
AMOUNT OF CLAIM (in dollars)					
12a. PROPERTY DAMAGE <i>NONE</i>	12b. PERSONAL INJURY <i>\$ 4,000,000.00</i> <i>4 (million)</i>	12c. WRONGFUL DEATH <i>\$ 4,000,000.00</i> <i>4 (million)</i>	12d. TOTAL (Failure to specify may cause forfeiture of your rights). <i>8,000,000.00</i> <i>8 million</i>		
I CERTIFY THAT THE AMOUNT OF CLAIM COVERS ONLY DAMAGES AND INJURIES CAUSED BY THE INCIDENT ABOVE AND AGREE TO ACCEPT SAID AMOUNT IN FULL SATISFACTION AND FINAL SETTLEMENT OF THIS CLAIM.					
13a. SIGNATURE OF CLAIMANT (See instructions on reverse side). <i>Rebecca Shepard</i>		13b. PHONE NUMBER OF PERSON SIGNING FORM <i>330 524-0188</i>		14. DATE OF SIGNATURE <i>6-24-2020</i>	
CIVIL PENALTY FOR PRESENTING FRAUDULENT CLAIM		CRIMINAL PENALTY FOR PRESENTING FRAUDULENT CLAIM OR MAKING FALSE STATEMENTS			
The claimant is liable to the United States Government for a civil penalty of not less than		Fine, imprisonment, or both. (See 18 U.S.C. 287, 1001.)			
		imprisonment, or both. (See 18 U.S.C. 287, 1001.)			